

**SUPREME COURT MINUTES
WEDNESDAY, SEPTEMBER 24, 2003
SAN FRANCISCO, CALIFORNIA**

S096831

BARNETT (LEE MAX) ON H.C.
Rehearing denied

Petitioner's petition for rehearing denied.
Petitioner's pro se petition for rehearing denied.

Kennard, J., was recused and did not participate.

S099479

F034334 Fifth Appellate District

LUND v. SAN JOAQUIN VALLEY RAILROAD
Rehearing denied

Opinion modified – no change in judgment

Baxter, J., was recused and did not participate.

S117641

G029525 Fourth Appellate District,
G029607 Division Three

PEOPLE v. BRICENO et al.
Petition for review granted

Respondent's petition for review GRANTED.

Kennard, J., and Werdegar, J., voted to grant appellants' petition for review as to issue III only.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown & Moreno, JJ.

S117735

H024481 Sixth Appellate District

BOGHOS v. LLOYDS OF LONDON
Petition for review granted

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin and Moreno, JJ.

S117964

C035317 Third Appellate District

PEOPLE v. YARTZ
Petition for review granted

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown and Moreno, JJ.

S118180
F039200 Fifth Appellate District

PEOPLE v. MARTINEZ
Petition for review granted

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown and Moreno, JJ.

S113759
B155736 Second Appellate District,
Division Eight

TAIHEIYO CEMENT v. S.C. (JEONG)
Transferred to CA 2/8 after hold

The above-entitled review is hereby transferred to the Court of Appeal, Second Appellate District, Division Eight, with directions to vacate its decision and to reconsider the cause in light of *American Ins. Ass'n v. Garamendi* (June 23, 2003) ___ U.S. ___ [123 S.Ct. 2374].

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, and Moreno, JJ.

S114470
G030056 Fourth Appellate District,
Division Three

MITSUBISHI MATERIALS v. S.C. (DILLMAN)
Transferred to CA 4/3 after hold

The above-entitled review is hereby transferred to the Court of Appeal, Fourth Appellate District, Division Three, with directions to vacate its decision and to reconsider the cause in light of *American Ins. Ass'n v. Garamendi* (June 23, 2003) ___ U.S. ___ [123 S.Ct. 2374].

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown and Moreno, JJ.

S093647

JONES (JEFFREY G.) ON H.C.
Petition for writ of habeas corpus denied (AA)

The petition for writ of habeas corpus, filed on December 5, 2000, is denied.

Claim One is denied on the merits. To the extent petitioner contends that the trial court failed to conduct additional competency proceedings, it is also procedurally barred, separately and independently, as successive, in the sense that it could have been, but was not, raised on habeas corpus previously (see *In re*

Robbins (1998) 18 Cal.4th 770, 778, fn. 1, 788, fn. 9; *In re Clark, supra*, 5 Cal.4th at pp. 767-768; *In re Horowitz* (1949) 33 Cal.2d 534, 546-547), and as untimely (see *In re Robbins, supra*, 18 Cal.4th at pp. 780-781; *In re Clark, supra*, 5 Cal.4th at pp. 763-799). To the extent petitioner contends that he was forcibly medicated with antipsychotic drugs at trial, and that his trial counsel rendered ineffective assistance of counsel by failing to object to the medication at trial, it is also procedurally barred, separately and independently, as repetitive of a claim raised and rejected on habeas corpus previously. (See *In re Clark, supra*, 5 Cal.4th at p. 767; *In re Miller, supra*, 17 Cal.2d at p. 735.)

Claim Two is denied on the merits. It is also procedurally barred, separately and independently, because it could have been, but was not, raised on appeal (see *In re Dixon* (1953) 41 Cal.2d 756, 759), and because it is successive (see *In re Robbins, supra*, 18 Cal.4th at pp. 778, fn. 1, 788, fn. 9; *In re Clark, supra*, 5 Cal.4th at pp. 767-768; *In re Horowitz, supra*, 33 Cal.2d at pp. 546-547), and untimely (see *In re Robbins, supra*, 18 Cal.4th at pp. 780-781; *In re Clark, supra*, 5 Cal.4th at pp. 763-799).

Claim Three is denied on the merits. To the extent petitioner contends that trial counsel unreasonably selected Dr. Daniel Edwards as a defense expert, failed adequately to prepare Dr. Edwards to testify, and unreasonably abandoned the presentation of neuropsychological evidence after the competency trial, it is also procedurally barred, separately and independently, as repetitive of a claim raised and rejected on habeas corpus previously. (See *In re Clark, supra*, 5 Cal.4th at p. 767; *In re Miller, supra*, 17 Cal.2d at p. 735.) To the extent petitioner contends that Dr. Edwards performed deficiently, it is also procedurally barred, separately and independently, as successive (see *In re Robbins, supra*, 18 Cal.4th at pp. 778, fn. 1, 788, fn. 9; *In re Clark, supra*, 5 Cal.4th at pp. 767-768; *In re Horowitz, supra*, 33 Cal.2d at pp. 546-547), and as untimely (see *In re Robbins, supra*, 18 Cal.4th at pp. 780-781; *In re Clark, supra*, 5 Cal.4th at pp. 763-799). To the extent

petitioner contends that trial counsel failed adequately to rebut prosecution evidence of malingering, unreasonably failed to present evidence of the side effects of petitioner's medications, and unreasonably failed to present additional evidence regarding Atascadero State Hospital, it is also procedurally barred, separately and independently, as successive (see *In re Robbins, supra*, 18 Cal.4th at pp. 778, fn. 1, 788, fn. 9; *In re Clark, supra*, 5 Cal.4th at pp. 767-768; *In re Horowitz, supra*, 33 Cal.2d at pp. 546-547), and as untimely (see *In re Robbins, supra*, 18 Cal.4th at pp. 780-781; *In re Clark, supra*, 5 Cal.4th at pp. 763-799).

Claim Four is denied on the merits. To the extent petitioner contends that the prosecutor committed misconduct during closing argument in the sanity trial by arguing that petitioner might be antisocial rather than genuinely mentally ill (see Petn., p. 85, ¶ 208), it is also procedurally barred, separately and independently, because it could have been, but was not, raised on appeal (see *In re Dixon, supra*, 41 Cal.2d at p. 759), and because it is successive (see *In re Robbins, supra*, 18 Cal.4th at pp. 778, fn. 1, 788, fn. 9; *In re Clark, supra*, 5 Cal.4th at pp. 767-768; *In re Horowitz, supra*, 33 Cal.2d at pp. 546-547), and untimely (see *In re Robbins, supra*, 18 Cal.4th at pp. 780-781; *In re Clark, supra*, 5 Cal.4th at pp. 763-799). In all other respects, the claim is also procedurally barred, separately and independently, because it was raised and rejected on appeal. (See *In re Waltreus* (1965) 62 Cal.2d 218, 225.)

Claim Five is denied on the merits. It is also procedurally barred, separately and independently, because it is successive (see *In re Robbins, supra*, 18 Cal.4th at pp. 778, fn. 1, 788, fn. 9; *In re Clark, supra*, 5 Cal.4th at pp. 767-768; *In re Horowitz, supra*, 33 Cal.2d at pp. 546-547), and untimely (see *In re Robbins, supra*, 18 Cal.4th at pp. 780-781; *In re Clark, supra*, 5 Cal.4th at pp. 763-799).

Claim Six is denied on the merits.

Claim Seven is denied on the merits. To the extent petitioner contends that the death penalty is disproportionate to his individual culpability

(see *People v. Marshall* (1990) 50 Cal.3d 907, 937-938), it is also procedurally barred, separately and independently, because it was raised and rejected on appeal. (See *In re Waltreus* (1965) 62 Cal.2d 218, 225.)

Claim Eight is denied on the merits. To the extent petitioner contends that California's death penalty statute is invalid under international law, and that execution of the mentally ill violates international law, it is denied solely on the merits. In all other respects, it is also procedurally barred, separately and independently, because it is untimely (see *In re Robbins, supra*, 18 Cal.4th at pp. 780-781; *In re Clark, supra*, 5 Cal.4th at pp. 763-799), and successive (see *In re Robbins, supra*, 18 Cal.4th at pp. 778, fn. 1, 788, fn. 9; *In re Clark, supra*, 5 Cal.4th at pp. 767-768; *In re Horowitz, supra*, 33 Cal.2d at pp. 546-547), and because it could have been, but was not, raised on appeal (see *In re Dixon, supra*, 41 Cal.2d at p. 759).

Claim Nine is denied on the merits.

Claim Ten is denied on the merits.

Claim Eleven is dismissed as premature. (See *People v. Kelly* (1992) 1 Cal.4th 495, 545, fn. 11.)

Kennard, J., is of the opinion that an order to show should issue on Claim 1 only.

Werdegar, J., would deny on Claim 1 on procedural bar only.

Agreeing that Claim Eleven should be dismissed as premature, Justice Brown would deny all of the other claims solely on the merits.

S117320

A099128 First Appellate District,
Division Five

DAVIS v. SKINNER

Petition for review & publication request denied

Brown, J., was recused and did not participate.

S117328

H026052 Sixth Appellate District

GREENWALD (JEFFREY) ON H.C.

Petition for review denied

S117487

H024715 Sixth Appellate District

BUSH (RONNIE GENE) ON H.C.

Petition for review denied

S117497

B147015 Second Appellate District,
Division Five

PEOPLE v. SCHMAUS

Petitions for review denied

Kennard, J., is of the opinion the petition should
be granted.

S117539

H023839 Sixth Appellate District

GRANT v. COMP USA

Petition for review & depublication request denied

S117575

A097446 First Appellate District,
Division One

PEOPLE v. MCDUGAL

Petition for review denied

S117578

B157419 Second Appellate District,
Division One

SMITH (MARK) ON H.C.

Petition for review & depublication request denied

Brown, J., was recused and did not participate.

S117581

B150013 Second Appellate District,
Division Three

PEOPLE v. CARO

Petitions for review denied

S117618

D037599 Fourth Appellate District,
Division One

CALIFORNIA ASSOCIATION OF RETAIL
TOBACCONISTS v. STATE OF CALIFORNIA

Petitions for review denied

George, C.J., was recused and did not
participate.

S117636

A100327 First Appellate District,
Division One

TESORO REFINING & MARKETING COMPANY v.
COMMUNITIES FOR A BETTER ENVIRONMENT

Petition for review denied

Kennard, J., was recused and did not participate

S117639

C036415 Third Appellate District

UHRICH v. STATE FARM FIRE & CASUALTY

Petition for review denied

S117719

E031070 Fourth Appellate District,
Division Two

PEOPLE v. JACKSON

Petitions for review denied

S117737

E031006 Fourth Appellate District,
Division Two

PEOPLE v. BERUMEN

Petitions for review denied

S117774

F042564 Fifth Appellate District

CHEVRON STATIONS INC. v. WCAB (BELCHER)

Petition for review denied

Kennard, J., was recused and did not participate.

S117786

H024189 Sixth Appellate District

PEOPLE v. LOPEZ

Petition for review denied

S117787

H024738 Sixth Appellate District

LOPEZ (GUADALUPE) ON H.C.

Petition for review denied

S117819

B167669 Second Appellate District,
Division Three

ALBAOUL v. WCAB

Petition for review denied

S117826 Second Appellate District,
Division One

FLETCHER v. S.C. (PEOPLE)

Petition for review denied

S117852

B152991 Second Appellate District,
Division Six

PEOPLE v. OLVERA

Petition for review denied

S117889

B155450 Second Appellate District,
Division Three

PEOPLE v. SILVA

Petitions for review denied

S117982

C039919 Third Appellate District

HOBLITZELL v. CITY OF IONE

Petition for review denied

S117999

B160270 Second Appellate District,
Division Five

SIERRA CLUB v. CITY OF INDUSTRY

Petitions for review denied

S118002

A098113 First Appellate District,
Division One

SAFECO INSURANCE CO. v. CALIFORNIA

CAPITAL INSURANCE CO.

Petition for review denied

S118027

A098703 First Appellate District,
Division Five

PEOPLE v. RISELEY

Petition for review denied

S118132

G029968 Fourth Appellate District,
Division Three

COLT v. FREEDOM COMMUNICATIONS INC.

Petition for review denied

S118142

B154641 Second Appellate District,
Division Six

PEOPLE v. LEE

Petitions for review denied

S118153

E033770 Fourth Appellate District,
Division Two

SMITH v. S.C. (PEOPLE)

Petition for review denied

S118182

F040888 Fifth Appellate District

PEOPLE v. JACKSON

Petition for review denied

S118190

B153293 Second Appellate District,
Division Seven

SMITH (DONALD) v. INTERNATIONAL

BROTHERHOOD OF ELECTRICAL WORKERS

Petition for review & publication request denied

S118192

B155530 Second Appellate District,
Division Two

WILLIAMS v. J & J EQUIPMENT RENTAL

Petition for review denied

S118229

B158276 Second Appellate District,
Division Three

H. (JONATHAN), IN RE

Petition for review denied

S118233

A095680 First Appellate District,
Division One

PEOPLE v. TORRENTE
Petition for review denied

S118241

H025098 Sixth Appellate District

PEOPLE v. JERNIGAN
Petition for review & depublication request denied

S118257

D040624 Fourth Appellate District,
Division One

PEOPLE v. COLLINS
Petition for review denied

S118264

C041206 Third Appellate District

PEOPLE v. LIZARRAGA
Petition for review denied

S118265

C037197 Third Appellate District

PEOPLE v. FRANKLIN
Petition for review denied

S118269

F042404 Fifth Appellate District

WEEMS v. S.C. (PEOPLE)
Petition for review denied

S118278

B168582 Second Appellate District,
Division One

EQUINE AMERICA INC. v. S.C. (GUN-MUNRO)
Petition for review denied

S118279

B162574 Second Appellate District,
Division Five

PEOPLE v. JAQUEZ
Petition for review denied

S118286

A099170 First Appellate District,
Division Four

PEOPLE v. STAMPS
Petition for review denied

S118287

B149183 Second Appellate District,
Division Three

RAIL SERVICES OF AMERICA v. STATE
COMPENSATION INSURANCE FUND
Petition for review denied

S118289

C039206 Third Appellate District

PEOPLE v. CICERO
Petition for review denied

S118298 H026129 Sixth Appellate District	VARGAS v. S.C. (CITY OF SALINAS) Petition for review denied
S118300 E031871 Fourth Appellate District, Division Two	PEOPLE v. DAVIS Petition for review denied
S118318 H023212 Sixth Appellate District	PEOPLE v. CASTILLO Petition for review denied
S118319 B158844 Second Appellate District, Division Seven	PEOPLE v. VILLAREAL Petition for review denied
S118324 A097195 First Appellate District, Division Four	PEOPLE v. AGHA Petition for review denied
S118335 C040879 Third Appellate District	PEOPLE v. PEREZ Petition for review denied
S118343 D039825 Fourth Appellate District, Division One	PEOPLE v. BROCKWAY Petition for review denied
S118345 B151800 Second Appellate District, Division Two	SAKIYAMA v. AMF BOWLING Petition for review denied
S118347 A103510 First Appellate District, Division Two	PAVONE v. S.C. (PEOPLE) Petition for review denied
S118357 B162011 Second Appellate District, Division Three	PEOPLE v. TAYLOR Petition for review denied

S118358

B169185 Second Appellate District,
Division Five

ESLAMINIA v. S.C. (HAKIMI)

Petition for review denied

S118360

E032031 Fourth Appellate District,
Division Two

PEOPLE v. CROSBY

Petition for review denied

S118362

H025141 Sixth Appellate District

S. (MIA LYNN)

Petition for review denied

S118364

C038918 Third Appellate District

PEOPLE v. WILKEY

Petition for review denied

S118372

C040771 Third Appellate District

PEOPLE v. AIRONS

Petition for review denied

S118378

B161065 Second Appellate District,
Division Eight

PEOPLE v. BURGUENO

Petition for review denied

S118381

H023992 Sixth Appellate District

PEOPLE v. RAMIREZ

Petition for review denied

S118383

F042065 Fifth Appellate District

M. (AUSTIN), IN RE

Petition for review denied

S118385

D040177 Fourth Appellate District,
Division One

PEOPLE v. HOURIGAN

Petition for review denied

S118389

H025994 Sixth Appellate District

RAMIREZ (ALBERTO GOMEZ), ON H.C.

Petition for review denied

S118390

G029474 Fourth Appellate District,
Division Three

JALALI v. ROOT

Petition for review denied

S118392

F040463 Fifth Appellate District

PEOPLE v. EREBIA

Petition for review denied

S118394E030959 Fourth Appellate District,
Division Two

PEOPLE v. GARCIA

Petition for review denied

S118406B160661 Second Appellate District,
Division One

PEOPLE v. BARNES

Petition for review denied

S118414A099375 First Appellate District,
Division Four

PEOPLE v. HALL

Petition for review denied

S118420

F041016 Fifth Appellate District

PEOPLE v. HOGLAND

Petition for review denied

S118428D040954 Fourth Appellate District,
Division One

PEOPLE v. PINEDA

Petition for review denied

S118438

F043544 Fifth Appellate District

JAMERSON v. S.C (PEOPLE)

Petition for review denied

S118440A103517 First Appellate District,
Division Four

HALL (MICHAEL BRIAN) ON H.C.

Petition for review denied

S118501B168797 Second Appellate District,
Division Three

MERCK & CO. v. S.C. (ZUBA)

Petition for review denied

Request for judicial notice denied.
Chin, J., was recused and did not participate.

S110774

BARROS (MARK) ON H.C.

Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S110816

MENCHACA (ANGEL) ON H.C.
Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S110849

STYRE (ROBERT) ON H.C.
Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S111529

JOHNSON (KEITH) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S112619

DOWNEY (JON W.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S112672

ODEN (WILBERT J.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S112738

BLANKS (THOMAS) ON H.C.
Petition for writ of habeas corpus denied

S113026

WRIGHT (DEANDRE L.) ON H.C.
Petition for writ of habeas corpus denied

S113102

ACKER (GORDON ELLIOTT) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S113107

CAVITT (ANTONIO) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S113108

TYSON (TIMMY R.) ON H.C.
Petition for writ of habeas corpus denied

S113110

HERBERT (MICHAEL K.) ON H.C.
Petition for writ of habeas corpus denied

S113122	KREIS (JACK R.) ON H.C. Petition for writ of habeas corpus denied
S113142	CASS (GERALD) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113207	MARTINEZ (ARMANDO C.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113215	ARIAS (JORGE) ON H.C. Petition for writ of habeas corpus denied
S113238	LARA (ANTONIO) ON H.C. Petition for writ of habeas corpus denied
S113276	JOHNSON (HOWARD) ON H.C. Petition for writ of habeas corpus denied
S113287	DAVIS (TONY) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113289	CONSIGLIO (SAM) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113325	WADE (MATTHEW A.) ON H.C. Petition for writ of habeas corpus denied
S113368	CARTER (CHRIS) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113372	JOSEPH (ALFONZO J.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113417	JACKSON (TOMMIE L.) ON H.C. Petition for writ of habeas corpus denied

S113443	LAWS (ALFRED) ON H.C. Petition for writ of habeas corpus denied
S113503	CARPER (JAMIE) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113508	TERRELL (EDWARD) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113523	CANADY (JAMES) ON H.C. Petition for writ of habeas corpus denied
S113536	ALSTON (SHUNDRAY) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113546	PITTS (SYLBERT) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113551	WESTERFIELD (CLEO) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113560	COHEA (DANNY J.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113583	CALHOUN (DOUGLAS) ON H.C. Petition for writ of habeas corpus denied
S113597	PRIETO (SALVADOR) ON H.C. Petition for writ of habeas corpus denied
S113622	FRANCO (MICHAEL) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113640	COOPER (DENNIS) ON H.C. Petition for writ of habeas corpus denied

S113648	ELLIS (RUDOLPH) ON H.C. Petition for writ of habeas corpus denied
S113700	CLEMENTE (DOMENICK S.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113844	WOLFE (MARION C.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S113851	MANNING (ALTON R.) ON H.C. Petition for writ of habeas corpus denied
S114617	WOLFE (MARION C.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S114652	WOLFE (MARION C.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S118805	LIPSKI (FRANK FRANCIS) ON H.C. Petition for writ of habeas corpus denied
S118959	ROSS (ROBERT E.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S117766 G030567 Fourth Appellate District, Division Three	MORRIS v. PAUL REVERE LIFE INSURANCE Depublication request denied
S117865 A096323 First Appellate District, Division Two	SMITH v. MOBIL OIL CORPORATION Publication request denied (case closed)
S118060 A098590 First Appellate District, Division One	GILLIAM, IN RE Publication request denied (case closed)

S118404
D040409 Fourth Appellate District,
Division One

WALTON v. RESOURCE CONSULTANTS, INC.
Publication request denied (case closed)

S118521
C038893 Third Appellate District

CASSIDY v. KONIG
Publication request denied (case closed)

S016883

PEOPLE v. MASTERS (JARVIS)
Extension of time granted

to November 21, 2003 to file appellant's reply brief. Extension is granted based upon counsel Joseph Baxter's representation that he anticipates filing that brief by 11/21/2003. After that date, no further extension will be granted.

S041630

PEOPLE v. JABLONSKI (PHILIP C.)
Extension of time granted

to November 18, 2003 to file respondent's brief. The court anticipates that after date, only one further extension totaling 60 additional days will be granted. Counsel is ordered to inform his or her assisting attorney or entity, if any, and any assisting attorney or entity of any separate counsel of record, of this schedule, and to take all steps necessary to meet it.

S056842

PEOPLE v. RICCARDI (JOHN A.)
Extension of time granted

to December 1, 2003 to file appellant's opening brief. After that date, no further extension will be granted. Extension is granted based upon counsel Carla J. Johnson's representation that she anticipates filing that brief by 11/29/2003.

S109306

A094460 First Appellate District,
Division Five

DOWHAL v. SMITHKLINE BEECHAM
HEALTHCARE
Extension of time denied

Respondents' request for extension of time to
file Consolidated Response to amicus curiae
briefs.

S109983

RAMOS (MARCELINO) ON H.C.
Extension of time granted

to October 20, 2003 to file the reply to the
informal response to the petition for writ of
habeas corpus. The court anticipates that after
that date, only one further extension totaling 30
additional days will be granted. Counsel is
ordered to take all steps necessary to meet this
schedule.

S110791

JONES (ERNEST) ON H.C.
Extension of time granted

to October 22, 2003 to file the reply to the
informal response to the petition for writ of
habeas corpus. After that date, only one further
extension totaling about 30 additional days will
be granted. Extension is granted based upon
counsel Michael Laurence's representation that
he anticipates filing that document by
11/21/2003.

S113136

C037254 Third Appellate District

BRONCO WINE COMPANY v. ESPINOZA
Extension of time granted

to October 24, 2003 to file respondents' (Manuel
Espinoza et al.) and Intervenor (Napa Valley
Vinters Association) reply brief on the merits.

S115154

A095474 First Appellate District,
Division Five

YANOWITZ v. L'OREAL USA
Extension of time granted

to November 17, 2003 to file appellant's answer
brief on the merits.

S116812**MATTSON (MICHAEL D.) ON H.C.**
Extension of time granted

to October 20, 2003 to file the informal response to the petition for writ of habeas corpus. After that date, no further extension will be granted. Extension is granted based upon Deputy Attorney General Russell A. Lehman's representation that he anticipates filing that document by 10/19/2003.

S117002**MARSHALL (RYAN) ON H.C.**
Extension of time granted

Petitioner's request for relief from default is granted. Extension of time granted to 10/9/2003 to file the reply to the informal response to the petition for writ of habeas corpus by 10/9/2003. Extension is granted based upon counsel Patience Milrod's representation that she anticipates filing that document by 10/9/2003. After that date, no further extension is contemplated.

S026634**PEOPLE v. WATKINS (PAUL SODOA)**
Record correction granted

Appellant's "Motion to Correct, Augment and Settle the Certified Record on Appeal," filed on August 7, 2003, is granted in part and denied in part.

The motion is granted to the following extent:

The Clerk is directed to transmit the original record on appeal to the Clerk of the Superior Court of the County of Los Angeles.

The Superior Court of the County of Los Angeles is directed to conduct proceedings to determine whether corrections were made to the record on appeal in accordance with its "Order to Correct Record on Appeal," filed on June 21, 1998, and, to the extent necessary and appropriate, to cause the record to be so corrected.

The superior court is further directed: (1) to conduct proceedings to determine whether any

of the documents identified below was filed or lodged in the municipal or superior court files in this case; and if so (2) to cause such document or documents to be copied, to cause the document or documents so copied to become part of an augmented clerk's transcript, and to cause such transcript to be prepared, certified, and transmitted as specified in rules 35(e) and 39.50 of the California Rules of Court:

1. "CT Supplement II 1, volume 1, page 164." (Motion, p. 12.)

2. "Superior Court Minutes for March 13, 1997." (Motion, p. 14.)

3. "Superior Court Minutes for March 20, 1997." (Motion, p. 14.)

4. "Superior Court Minutes for March 24, 1997." (Motion, p. 14.)

5. "Superior Court Minutes for April 15, 1997." (Motion, p. 14.)

6. "Appellant's Request for Sealed Transcripts and to Correct and Augment the Record on Appeal, filed by former counsel Rowan Klein on March 6, 1997." (Motion, p. 15.)

7. "Appellant's Motion for Additional Clerk's and Reporter's Transcripts, filed by former counsel Rowan Klein on October 24, 1997." (Motion, p. 15.)

8. "Appellant's Motion to Correct the Record, filed by former counsel Rowan Klein, on January 16, 1998." (Motion, p. 15.)

9. "Stipulation to Continue Hearing on Motion To Correct Record To February 10, 1998, filed January 23, 1998." (Motion, p. 15.)

10. "Appellant's Response to District Attorney's Position on Motion to Correct Record, filed by former counsel Rowan Klein on March 2, 1998." (Motion, p. 15.)

11. "Superior Court Order to Correct Record on Appeal, signed by Judge Robert Martinez and filed on June 21, 1998." (Motion, p. 15.)

12. "Reporter's Transcript of record correction hearing on March 6, 1998." (Motion, p. 15.)

The superior court is further directed: (1) to conduct proceedings to determine whether any

of the documents identified below was filed confidentially pursuant to Penal Code section 987.2 or 987.9; if so (2) to cause any such document or documents to be removed from the clerk's transcript and included in a separate, sealed supplemental clerk's transcript (see Cal. Rules of Court, rule 39.51(b)), to cause the original of such separate, sealed supplemental clerk's transcript to be provided to this court and a copy to be provided to counsel for appellant only (*ibid.*), and to issue any and all necessary and appropriate orders, including protective orders, to undo any irregular disclosure and/or to cure its effects:

1. "[C.T. II] Pages 406-415: Inventory of Documents filed 7/31/91 by appellant's attorney, Thomas MacBride, and ordered sealed by trial court." (Motion, p. 20.)
2. "[C.T. II] Page 416: Minute Order for confidential hearing on 7/31/91." (Motion, p. 20.)
3. "[C.T. II] Page 418: Minute Order for confidential hearing on 8/05/91." (Motion, p. 20.)
4. "[C.T. II] Pages 419-421: Application for Appointment of Defense Investigator, filed pro se and ex parte on 8/7/91." (Motion, p. 20.)
5. "[C.T. II] Pages 425-427: Affidavit – Declaration of Investigator in Support of Motion for Funds for Investigation by Robert D. Bosic, filed on 8/13/91." (Motion, pp. 20-21.)
6. "[C.T. II] Pages 436-437: Ex Parte Motion and Order Appointing Investigator with Funds, filed pro per by appellant on 8/19/91." (Motion, p. 21.)
7. "[C.T. II] Pages 444-455: Appellant's Ex Parte Motion for the Appointment of Standby/Advisory Counsel, filed 9/4/91." (Motion, p. 21.)
8. "[C.T. II] Page 459: Minute Order, dated 9/4/91, setting an order to show cause hearing for appellant's experts." (Motion, p. 21.)
9. "[C.T. II] Pages 461-464: Ex Parte Motion for Indigent Funds filed pro per by appellant on 9/11/91." (Motion, p. 21.)
10. "[C.T. II] Pages 465-476: Appellant's Ex Parte Motion for Appointment of Co-Counsel,

filed 9/11/91.” (Motion, p. 21.)

11. “[C.T. II] Page 477: Minute Order for confidential hearing on 9/11/91 regarding order to show cause regarding appellant’s experts and appellant’s pro per motion for indigent funds.” (Motion, p. 21.)

12. “[C.T. II] Page 479: Minute Order for confidential hearing on 9/26/91 regarding appellant’s motion for co-counsel and investigation funds.” (Motion, p. 21.)

13. “[C.T. II] Pages 485-493: Appellant’s Ex Parte Motion to Appoint Co-Counsel, filed 10/22/91.” (Motion, p. 21.)

14. “[C.T. II] Page 498: Minute Order for confidential hearing on 10/29/91 regarding appellant’s motion for appointment of co-counsel.” (Motion, p. 21.)

15. “[C.T. II] Page 504: Minute Order for confidential hearing on 11/04/91 regarding the defense’s preparations and readiness for trial.” (Motion, p. 22.)

16. “[C.T. II] Page 517: Minute Order for confidential hearing on 11/7/91 regarding the defense’s preparations for trial.” (Motion, p. 22.)

17. “[C.T. II] Pages 525-533: Appellant’s Notice and Motion to Continue Trial, filed 11/20/91, which the trial judge ordered would be heard in camera (See CT II: 538).” (Motion, p. 22.)

18. “[C.T. II] Pages 534-537: Ex Parte Motion for Indigent Funds, filed pro per by appellant on 11/20/91.” (Motion, p. 22.)

19. “[C.T. II] Page 538: Minute Order setting in camera hearing on appellant’s motion to continue trial and directing appellant to provide supplemental declaration and filed on 11/20/91.” (Motion, p. 22.)

20. “[C.T. II] Pages 540-545: Appellant’s guilt phase investigation summary presented to the trial judge in camera and filed on 11/25/91.” (Motion, p. 22.)

21. “[C.T. II] Pages 546-550: Appellant’s Declaration in Support of Motion to Continue, filed on 11/25/91, which was heard in camera (see CT II: 551).” (Motion, p. 22.)

22. “[C.T. II] Pages 553-570: Appellant’s

Explanation of Guilt and Penalty Phase Investigation Sheet, received by the trial court in camera on 11/26/91.” (Motion, p. 22.)

23. “[C.T. III] Page 606: Minute Order for confidential hearing on appellant’s motion for stand-by counsel and additional indigent funds, dated 12/20/91.” (Motion, p. 22.)

24. “[C.T. III] Page 863: Order for Additional Fees filed on 4/20/92.” (Motion, p. 23.)

The superior court clerk is further directed to transmit to this court the original of the clerk’s transcript and reporter’s transcript relating to any proceeding conducted and any correction and/or additional material ordered, and to retransmit to this court the original of the record on appeal, following the certification required by California Rules of Court, rule 35(c)(4).

The superior court is further directed to comply with the foregoing directions, and to cause the superior court clerk to comply with the foregoing directions, as the case may be, on or before November 30, 2003.

In all other respects, the motion is denied.

S069959

PEOPLE v. LEWIS (MICHAEL B.)

Record augmentation granted

Appellant’s “Motion to Augment the Record on Appeal,” filed on August 11, 2003, is granted.

The superior court is directed to (1) conduct proceedings to determine whether any of the documents identified below was filed or lodged in the municipal or superior court files in this case, and, if so, to (2) cause the document or documents to be copied, to cause the document or documents so copied to become part of an augmented clerk’s transcript, and to cause such transcript to be prepared, certified, and transmitted as specified in rules 35(e) and 39.50 of the California Rules of Court:

1. Order dated January 8, 1993, holding

appellant to answer on a charge of murder. (See Motion, p. 2.)

2. Memorandum to Clerk from L. Valadez [*sic*], dated November 8, 1994. (See Motion, p. 2.)

3. Memorandum from Dennis M. Finn, Criminal Defense Panel, dated May 16, 1995. (Motion, p. 2.)

4. "Motion for Reduction of Sentence," pages 1 through 6. (Motion, p. 2.)

The superior court is further directed to comply with the foregoing directions on or before October 31, 2003.

S070686

PEOPLE v. ROMERO (GERARDO)
Record decertification denied

Appellant's "Motion for Order Vacating the Trial Court's Order Certifying the Record for Accuracy and Directing the Trial Court to Correct, Complete, and Settle the Record on Appeal," filed on August 27, 2003, is denied.

S073596

PEOPLE v. LANCASTER (ANDREW)
Motion denied

Appellant's motion to relieve appointed counsel and appoint new counsel in his place, filed on August 26, 2003, is denied.

S073596

PEOPLE v. LANCASTER (ANDREW)
Order filed

Good cause appearing, the application of appointed counsel Roger Teich for the appointment of associate counsel, filed August 19, 2003 (amended supporting declaration filed September 9, 2003), and the application of David E. Groom for appointment as associate counsel *pro hac vice* (see Cal. Rules of Court, rule 983), filed September 9, 2003, are granted.

David E. Groom is hereby appointed as associate counsel *pro hac vice* to represent

appellant Andrew Lancaster for the direct appeal in the above automatic appeal now pending in this court.

S089463

LAWLEY (DENNIS H.) ON H.C.
Motion denied

Petitioner's "Motion to Deem the Hon. John E. Griffin Disqualified by Operation of Law," filed on July 1, 2003, is denied on the merits and for lack of proper service. (See Code Civ. Proc., § 170.3, subd. (c)(1).)

S054717

MITCHELSON, MARVIN M.
Probation modified

It is ordered that the probation previously ordered in SO54717 (State Bar Court case nos. 93-O-11682; 93-O-12652; 93-O-12724; 93-O-12830; 93-O-12838; 93-O-13064; 93-O-13087; 93-O-13158; 93-O-13568; 93-O-15569; 93-O-17854; 93-O-18238; 94-O-11978; 94-O-12587 (Cons.)) be extended until May 17, 2005, and that the monthly restitution payments from January through September 2003 be reduced to \$1000 per month. Thereafter, the restitution payments shall return to the amount previously ordered. All other terms and conditions remain the same.

S103774

COLEMAN ON DISCIPLINE
Probation modified

Good cause having been shown, it is hereby ordered that probation is revoked, the previously ordered stay of execution of suspension in the above entitled matter is lifted, and it is ordered that **STEVEN PAUL COLEMAN, State Bar No. 196142**, be suspended from the practice of law for two years, that execution of suspension be stayed, and that **Steven Paul Coleman** be placed on probation for three years on condition that he be actually suspended for the first year of said period of probation. Credit toward the

period of actual suspension shall be given for the period of involuntary inactive enrollment which commenced on May 1, 2003 (Business & Professions Code section 6007(d)(3)). **Steven Paul Coleman** is further ordered to comply with the other conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its decision filed March 17, 2003. If **Steven Paul Coleman** has not already provided proof of passage of the Multistate Professional Responsibility Examination to the State Bar's Probation Unit between May 11, 2002 and the effective date of this order, **Steven Paul Coleman** is ordered to take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) **Steven Paul Coleman** is further ordered to comply with rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S105056

STUART ON DISCIPLINE

Probation modified

Good cause having been shown, it is hereby ordered that probation is revoked, the previously ordered stay of execution of suspension in the above entitled matter is lifted, and **STEVEN JOSEPH DUCA STUART, State Bar No. 111442**, shall be suspended from the practice of law for 18 months; that execution of the suspension be stayed, and that he be placed on probation for five years subject to the conditions of probation, including actual suspension for 90 days and restitution. Credit toward the period of actual suspension shall be given for the period of involuntary inactive enrollment which

commenced on May 30, 2003 (Business & Professions Code section 6007(d)(3)).

Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.
*(See Bus. & Prof. Code, § 6126, subd. (c).)

